

OCT 27 2006

Application No.: 10/617894

Case No.: 58670US004

REMARKS

Claims 1 to 65 are pending. Claims 1 -22, 27-43 and 45-64 have been withdrawn from consideration. By this amendment, claim 23 has been amended and claim 44 has been cancelled. Thus claims 23-26, and 65 are currently at issue.

Claim 23 has been re-written in independent form, as suggested by the Examiner, and also amended to state that the polymer article comprises an elongate foam polymer strip used as a masking material. Support for this amendment may be found in original claim 44.

Applicants would like to thank the Examiner for the telephonic interview held on August 25, 2006. Although no agreement on claim language was reached, the Examiner offered applicants some suggestions regarding claim amendments.

Double Patenting

Claims 23-26, 44 and 65 were rejected as being unpatentable for obviousness type double patenting over claims 1-24 of U.S. Patent Number 6,797,361. Claims 23-26, 44 and 65 were additionally rejected for obviousness type double patenting as being unpatentable over claims 1-48 of copending Application No. 10/617,893. Applicants will submit appropriate terminal disclaimers to address this rejection.

§ 102 Rejections

Claims 23, 24, and 26 stand rejected under 35 USC § 102(b) as being anticipated by Bambara et al. (US 5,350,544) substantially as set forth in the 01/12/2006 Office Action.

Claim 23, as amended, is directed to an elongate foam polymer strip used as a masking material. Bambara does not teach or suggest an elongate foam polymer strip used as a masking material. Rather, Bambara is directed to a method of stamping foam shoe inserts. Claims 24 and 26 each depend from claim 23 and are novel over Bambara for at least the reasons stated regarding claim 23.

Claims 23-26, 44 and 65 stand rejected under 35 USC § 102(b) as being anticipated by WO 99/46056 substantially as set forth in the 01/12/2006 Office Action. Reconsideration is requested.

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Claim 23, as amended, is directed to a polymer article comprising an elongate foam polymer strip used as a masking material, wherein the strip includes a predetermined surface pattern in at least a portion of the strip, the surface pattern including at least a first area that is partially compressed to define at least a part of the surface pattern and at least a second area that is compressed either more or less than the first area to define the predetermined surface pattern.

WO 99/46056 does not teach or suggest a polymer material which includes a surface pattern including at least a first area that is partially compressed to define at least a part of the surface pattern and at least a second area that is compressed either more or less than the first area to define the predetermined surface pattern. Claims 24-26 depend from claim 23 and are patentable over WO 99/46056 for at least the reasons asserted regarding claim 23.

Claim 65 is directed to an elongate foam strip for use as a masking material to mask a gap between two relatively movable parts, the foam strip having an adhesive stripe for releasably securing the foam strip to one of the parts to close temporarily the gap, and a surface pattern provided in an area that has been formed to a desired shape under pressure with a first partially compressed area, and a second partially compressed area, compressed more or less than the first area. WO 99/46056 does not teach or suggest a foam strip for use as a masking material where the surface pattern is provided in an area that has been formed to a desired shape under pressure with a first partially compressed area, and a second partially compressed area, compressed more or less than the first area.

Claims 23-26, 44 and 65 stand rejected under 35 USC § 102(b) as being anticipated by Bouic (US 6,797,361) substantially as set forth in the 01/12/2006 Office Action.

Again, independent claims 23 and 65 require a surface pattern with a first partially compressed area, and a second partially compressed area, compressed more or less than the first area. Bouic does not teach or suggest applying a surface pattern to a foam article. Reconsideration is requested.

Claims 23-26, 44 and 65 stand rejected under 35 USC § 102(b) as being anticipated by Barrows et al. (US 5,547,725). Reconsideration is requested. Barrows does not teach or suggest applying a surface pattern to a foam polymer article as required by the pending independent claims set forth above.

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§ 103 Rejections

Claims 23-26, 44 and 65 stands rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 795 356 substantially as set forth in the 01/12/2006 Office Action. EP'356 does not teach or suggest applying a surface pattern with a first partially compressed area, and a second partially compressed area, compressed more or less than the first area, as required by the independent claims.

In light of the current rejections applicants believe that perhaps there is a misunderstanding as to what constitutes a "surface pattern." The art applied by the Examiner does not teach or suggest a surface pattern as described in the claimed invention. For example, drawings 8-14 depict surface patterns as defined by the present invention. The art cited by the examiner clearly does not provide a teaching or suggestion of applying such patterns to polymeric foam masking articles.

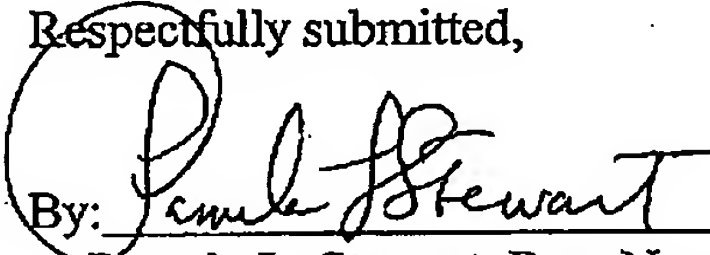
In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application is requested. The Examiner is welcome to contact the undersigned to further discuss the remaining issues in the case.

Respectfully submitted,

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Date

By:

  
Pamela L. Stewart, Reg. No.: 45,707  
Telephone No.: 651-733-2059

Office of Intellectual Property Counsel  
3M Innovative Properties Company  
Facsimile No.: 651-736-3833